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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                | CONFIRMATION NO.            |
|---|-------------|----------------------|------------------------------------|-----------------------------|
| 10/824,539  | 04/15/2004  | Masanori Takita      | 252009US3                          | 6545                        |
| 22850 7590 01/29/2008<br>OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.<br>1940 DUKE STREET<br>ALEXANDRIA, VA 22314 |             |                      | EXAMINER<br>MORGAN JR, JACK HOSMER |                             |
|   |             |                      | ART UNIT<br>3782                   | PAPER NUMBER                |
|   |             |                      | NOTIFICATION DATE<br>01/29/2008    | DELIVERY MODE<br>ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|                              |                               |   |  |
|------------------------------|-------------------------------|---|--|
| <b>Office Action Summary</b> | Application No.<br>10/824,539 | Applicant(s)<br>TAKITA ET AL. <span style="float: right;">CT</span> |  |
|                              | Examiner<br>Jack H. Morgan    | Art Unit<br>3782  |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-8 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/19/07</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukushi (JP 49-12112). Fukushi discloses a gusset bag with a pair of main faces (4) and a pair of inwardly folding side faces (See Fig 6, 1) with a deformable wire like member (3) forming an inverted angular “U” along the top of the side face (See Fig 6).
2. Claims 2-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Shore (US 3,462,067). Shore discloses a gusset bag (Fig 1) having a pair of main faces (17) and a pair of inwardly folding side faces (perpendicular to 17) having a deformable vertical wire-like member (30) in a hem seal (25) formed by heat sealing (20, Col 2 lines 17-20). Shore further discloses a space between the wire-like member and the fused portion of the joint (note Fig 3, small space directly to the right of 30, between the two panels of 20, and to the left of the fused portion formed by 24).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shore (US 3,462,067) in view of Yuter (US 6,238,090). Shore discloses all the limitations of the claim except for the main faces provided with a cutting guide line along which the bag is adapted to be cut off, the vertical wire like members being adapted to be cut off along the cutting line. Yuter discloses a bag of similar structure to that of Shore having a cutting line (16) above which an upper portion of the bag (8) is capable of being cut off in order to make the bag smaller and thus more manageable for retrieving items from. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the gusset bag of Shore with a cutting guide line as taught by Yuter in order to make the bag smaller as items are removed from it. The rods of Shore are capable of being cut during this modification.

4. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shore (US 3,462,067) in view of Yutaka (JP 08-244795). Shore discloses all the limitations of the claim except for a projection for creating a level difference is provided across the centerline of each of the side faces below an upper end output opening.

Yutaka discloses a gusset bag with a projection (5) which creates a level difference provided in order to assist in the opening of the bag (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the bag of Shore with the projection of Yutaka in order to make it easier to open the bag.

In regards to claim 17, Shore discloses all the limitations of the claim except for a rectangular projection which extends along the side faces of the bag for maintaining a rectangular shape of the bag upon being opened. Yutaka discloses a gusset bag with a rectangular projection (5) maintains the bag in a rectangular shape as it assists in the opening of the bag (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the bag of Shore with the projection of Yutaka in order to make it easier to open the bag, and maintain the opening in a rectangular shape, by reinforcing the sidewalls.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of Cvacho (US 3,269,642). Fukushi discloses all the limitations of the claim except for each of the side faces having a vertical fin-like rib projecting on the outer side thereof along the centerline. Cvacho discloses a gusset bag of similar structure to the bag of Fukushi (Fig 10) having a side face formed with a central fin-like rib in order to form the bag with an outward folding gusset. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the gusset bag of Fukushi with a fin-like rib in the center of the side panel as taught by Cvacho in order to form the gussets with an outward closing fold.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima (JP 49-12112) in view of JP 2000-326996. Fukushima discloses all the limitations of the claim except for the wire-like member being covered with a resin. JP 2000-326996 discloses a bag formed of sheet material (22a and 22b) comprising a plastically deformable wire-like member (11) comprising an inner wire member (14) surrounded by a resin (15) and attached along a lateral edge thereof, disposed in a folded back hem seal (See Fig 6), the wire being covered in a resin preventing the sharp edges of the wire from puncturing the bag while still having the added strength of a wire, as opposed to merely a resin folding member.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima (JP 49-12112) in view of Ashton (US 3,228,584). Fukushima discloses all the limitations of the claim except for the bag being a detergent package packed with granular detergent. Ashton discloses a bag of similar structure with granular detergent (Col 2, lines 43-45) in it in order to hold detergent. It would have been obvious to place granular detergent in the bag of Fukushima as taught by Ashton in order to hold detergent.

### ***Response to Arguments***

8. Applicant's arguments filed October 29, 2007 have been fully considered but they are not persuasive. Examiner notes that the remarks quote language which is not found in the claims (Page 11, lines 6-8 and 11-13) and as such the remarks are not

persuasive. Further, Examiner notes that independent claim 4 and its dependent claims are not argued, and indeed claim 6 is argued as being allowable because its dependence on claim 2, when in fact it depends on claim 4.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mac Murray (US 3,290,854).

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack H Morgan  
Examiner  
Art Unit 3782

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER